

SUMMARY ANALYSIS OF AMENDED BILL

Author: DeLeon, et al Analyst: David Scott Bill Number: SB 116
 Related Bills: See Prior Analysis Telephone: 845-5806 Amended Date: August 18, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Hiring Credit/Business Income Apportionment/Mandatory Single Sales Factor & Add Elective Four-Factor Formula/K-12 Investment Tax Credit Program Special Fund or Higher Education Investment Tax Credit Program Special Fund Contributions Credit

SUMMARY

Provisions of this bill would make the following changes:

Provision No. 1: Expand the current Jobs Tax Credit to taxpayers that employ 50 or fewer employees, increase the credit amount to \$4,000 per new hire, and change the cut-off date to the earlier of the end of the quarter that the \$400 million cap is reached or December 31, 2015.

Provision No. 2:

- Repeal the annual election to use single sales factor;
- Require taxpayers not in a qualified business activity or that make an election to use the four-factor formula to use a mandatory single sales factor;
- Require all taxpayers to use the “market rule” for assigning sales to the sales factor; and
- Allow qualified taxpayers to assign 50 percent of the mandatory sales factor to California.

Provision No. 3: Allow taxpayers a tax credit equal to 75 percent of their cash contributions made to a new special education fund with an aggregate credit cap of five hundred million dollars (\$500,000,000) per calendar year for taxable years beginning on or after January 1, 2012 and before January 1, 2017.

This analysis will not address the bill’s provision for sales and use tax exemption for certain qualified tangible personal property as it does not impact the department or state income tax revenue.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Board Position:

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Interim Legislative Director

Date

Anne Maitland

09/02/11

SUMMARY OF AMENDMENTS

Provision No. 1

The August 18, 2011, amendments addressed FTB's implementation consideration regarding the cut-off date for the jobs credits. Additionally, the amendments added language to annualize the full-time employee equivalents computed for short period returns.

Provision No. 3

The August 18, 2011, amendments made the following changes to this provision:

- Removed the K-12 special fund from the credit language;
- Added a cut-off date of December 31, 2016, making this a five year credit;
- Reduces the annual available credit to \$500 million per year;
- Names the State Treasurer as the administrator for the higher education fund; and
- Adds the State Controller as the person to allocate the higher education funds to the various recipients of the money.

The "This Provision" sections for Provisions No. 1 and 3 are provided below and reflect the changes made with the August 18, 2011, amendments. The "Purpose" section for Provision No. 3 is provided and reflects the changes made with the August 18, 2011, amendments. The "Implementation Considerations" from the analysis of the bill, as amended on July 7, 2011, have been resolved and are not included in this analysis. The remainder of the analysis of the bill, as amended on July 7, 2011, still applies.

PROVISION NO. 1 EXPAND JOBS CREDIT

Sections 17053.8 and 23623

THIS PROVISION

For taxable years beginning on or after January 1, 2011, this provision would change existing law to define a qualified employer as one that employs 50 or fewer employees and increase the amount of the credit for each full-time equivalent hired from \$3,000 to \$4,000.

In addition, this bill would change the cut-off date of the credit to the earlier of when the \$400 million cap is reached or December 31, 2015.

PROVISION NO. 3: EDUCATION CONTRIBUTION CREDIT

Sections 17053.86 and 23686

Purpose

According to the author's office, the new tax credit program - the Higher Education Investment Tax Credit – would provide taxpayers with access to \$500 million in tax credits and direct funds generated to under-funded public education systems. These tax credit programs will help rebuild the state's investment in education.

THIS PROVISION

For taxable years beginning on or after January 1, 2012, and before January 1, 2017, this provision would allow taxpayers to receive a credit against their "tax" for 75 percent of any cash contributions made to a new education fund. If the credit allowed is more than the amount of tax for the current taxable year, the credit can be carried forward to the subsequent six years. The total credits for any calendar year is capped at \$500 million. The credit is allocated on a first-come, first-served basis. The annual cut-off date for the credit is the last day of the quarter that the FTB estimates it will receive originally-filed tax returns claiming the credits totaling five hundred million dollars for the calendar year.

FISCAL IMPACT

Staff estimates a cost of approximately \$170,000 to develop, program, and test revisions to existing systems to implement the educational credit provision of this bill. Due to the current fiscal environment and the need for increased resources necessary to implement other pending bills, implementation of this bill is contingent on funding.

The jobs credit and mandatory single sales factor provisions would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 116 as Amended on August 18, 2011 For Tax Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011				
	2011-12	2012-13	2013-14	2014-15
Job Tax Credit	-\$90,000,000	-\$33,000,000	\$20,000,000	\$44,000,000
Education credit	-\$200,000,000	-\$430,000,000	-\$460,000,000	-\$460,000,000
Mandatory SSF	\$1,300,000,000	\$1,100,000,000	\$1,100,000,000	\$1,000,000,000
Special sales rule- cable corps	-\$38,000,000	-\$38,000,000	-\$37,000,000	-\$39,000,000
Net Fiscal Impact	\$972,000,000	\$599,000,000	\$623,000,000	\$545,000,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this measure.

LEGISLATIVE STAFF CONTACT

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